

UNITED STATES DEPARTMENT OF AGRICULTURE

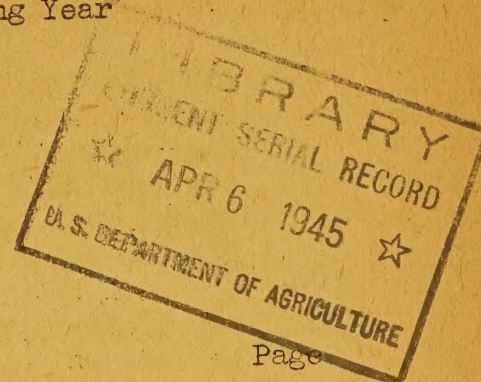
WAR FOOD ADMINISTRATION

(AGRICULTURAL ADJUSTMENT)

Marketing Quota Regulations,
Flue-cured Tobacco - 1945-46 Marketing Year

Part I

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(AUTHORITY: Sections 1 to 13, inclusive, are issued under authority contained in 52 Stat. 38, 47; 54 Stat. 392; 53 Stat. 1261; 56 Stat. 51; 7 U. S. C. 1940 ed. 1301(b), 1313; 52 Stat. 66; 7 U. S. C. 1940 ed. 1375; Public Law 118, 78th Congress, as amended by Public Law 276, 78th Congress; Executive Order 9280 of December 5, 1942; and Executive Order 9322 of March 26, 1943, as amended, by Executive Order 9334 of April 19, 1943, as further amended by Executive Order 9392 of October 28, 1943; 54 Stat. 676; 55 Stat. 236; 56 Stat. 121; 56 Stat. 176)

GENERAL

Section 1 Definitions.

(a) County committee means the group of persons elected within any county to assist in the administration of the Agricultural Conservation Programs in such county.

(b) Farm means all adjacent or nearby farm land under the same ownership which is operated by one person, including also:

- (1) Any other adjacent or nearby farm land which the county committee, in accordance with instructions issued by the Agricultural Adjustment Agency, determines is operated by the same person as part of the same unit with respect to the rotation of crops and with work-stock, farm machinery, and labor substantially separate from that for any other lands; and
- (2) Any field-rented tract (whether operated by the same or another person) which, together with any other land included in the farm, constitutes a unit with respect to the rotation of crops.

A farm shall be regarded as located in the county in which the principal dwelling is situated, or if there is no dwelling thereon it shall be regarded as located in the county in which the major portion of the farm is located.

(c) New farm means a farm on which tobacco was not produced in any of the five years 1940 to 1944 but on which tobacco will be produced in 1945.

(d) Old farm means a farm on which tobacco was produced in one or more of the five years 1940 to 1944.

(e) Operator means the person who is in charge of the supervision and conduct of the farming operations on the entire farm.

(f) Person means an individual, partnership, association, corporation, estate or trust or other business enterprise or other legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(g) State committee means the group of persons designated within any State to assist in the administration of the Agricultural Conservation Program in such State.

(h) Tobacco means flue-cured tobacco as classified in Service and Regulatory Announcement No. 118 of the Bureau of Agricultural Economics of the United States Department of Agriculture, as types 11, 12, 13, and 14.

Sec. 2 Extent of calculations and rule of fractions. All acreages shall be calculated to the nearest one-tenth acre. All percentages shall be calculated to the nearest whole percent except that in calculating the percent of excess acreage, all fractions shall be dropped if the percentage is more than one percent, and all fractions of less than a tenth shall be dropped if the percentage is less than one percent.

Sec. 3 Instructions and forms. The Chief of the Agricultural Adjustment Agency shall cause to be prepared and issued such instructions and such forms as may be deemed necessary or expedient for carrying out these regulations.

Sec. 4 Applicability of regulations. These regulations shall govern the establishment of farm acreage allotments and normal yields for flue-cured tobacco in connection with farm marketing quotas for the marketing year beginning July 1, 1945.

ACREAGE ALLOTMENTS AND NORMAL YIELDS FOR OLD FARMS

Sec. 5 Determination of acreage allotments for old farms. The tobacco acreage allotment for an old farm shall be the 1944 acreage allotment for the farm, adjusted in accordance with Sections 6, 7, and 8 below. For the purpose of this section, the 1944 acreage allotment shall include any acreage by which the 1944 allotment for the farm was reduced because of a violation of the marketing quota regulations for a prior marketing year, but shall not include any acreage allotted in 1944 from State pools unless the owner of the farm was dispossessed of another farm through acquisition thereof by a Federal agency for National defense purposes. No allotment shall be established under this section for any farm on which no tobacco was produced in any of the five years 1940 to 1944, inclusive.

Sec. 6 Reduction of acreage allotment for violation of the marketing quota regulations for a prior marketing year. If tobacco was sold or was permitted to be sold in any marketing year as having been produced on any farm which in fact was produced on a different farm, the acreage allotment established for both such farms for 1945 shall be reduced by the amount of tobacco so marketed; provided, that such reduction shall not be made if the War Food Administrator, through the county committee, determines that no person connected with such farm caused, aided, or acquiesced in such marketing. If proof of the disposition of any amount of tobacco produced on a farm is not furnished as required by the War Food Administrator, the acreage allotment shall be reduced by such amount of tobacco. This section shall not apply if the allotment for any prior year was reduced on account of the same violation.

The amount of tobacco involved will be converted to an acreage basis by dividing such amount of tobacco by the actual yield for the farm during the year in which such tobacco was produced, or if the actual yield cannot be determined, by the estimated yield for the farm for such year.

Sec. 7 Adjustments by county committees. An acreage not in excess of two percent of the 1940 acreage allotment for each State will be available for allotment by the respective county committees. An old farm shall be eligible for adjustment as provided hereunder if the committee finds that the 1944 allotment for the farm is relatively smaller in relation to the land, labor, and equipment available for the production of tobacco on the farm than the average of the allotments in relation to such factors on other old farms in the county. In making the adjustment in the farm acreage allotment, the county committee shall consider the past acreage of tobacco (harvested and diverted), the land, labor and equipment available for the production of tobacco, and crop rotation practices. Without prior approval of the State committee, the acreage allotted under this section shall not exceed one percent of the county acreage allotment for 1940.

All adjustments as provided above shall be subject to the approval of the State committee.

Sec. 8 Reallocation of allotments released from farms removed from agricultural production.

(a) Except as provided in subsection (b) of this section, the tobacco allotment determined or which would have been determined for any land which is removed from agricultural production because of acquisition by a State or Federal agency for any purpose or by a person for use in connection with the national defense program shall be available to the State committee for use in providing equitable allotments for farms on which tobacco was grown in one or more of the past five years, and which are operated in 1945 by persons who were producers of tobacco on land so removed from agricultural production. Insofar as possible the allotments for farms operated by such persons shall be comparable to the allotments for other old farms in the same community which are similar with respect to land, labor and equipment available for the production of tobacco, crop rotation practices, soil and other physical factors affecting the production of tobacco, taking into consideration the allotment for the land removed from agricultural production. The allotment so determined shall be subject to the approval of the State committee and shall not exceed the larger of (1) the 1945 allotment previously determined for such land, or (2) the allotment which was or would have been determined for the land removed from agricultural production; provided, that in no event shall the allotment so determined exceed the larger of 50 percent of the acreage of cropland in the farm, or three acres.

(b) The allotment determined or which would have been determined for any land acquired on or since January 1, 1940, by any Federal agency for national defense purposes shall be placed in a State pool and shall be used in determining equitable allotments for farms owned or purchased by owners displaced because of acquisition of their farm by a Federal agency for national defense purposes. Upon application to the county committee, any owner so displaced shall be entitled to have an allotment for any one of the other farms owned or purchased by him equal to an allotment which would have been determined for such other farm plus the allotment which would have been determined for the farm acquired by the Federal agency, provided, that such allotment shall not exceed 50 percent of the acreage of cropland in the farm. The provisions of this subsection shall not be applicable if (1) there is any marketing quota penalty due with respect to the marketing of tobacco from the farm or by the owner of the farm at the time of its acquisition by the Federal agency; (2) any tobacco produced on such farm has not been accounted for as required by the War Food Administrator; or (3) if the allotment next to be established for the farm acquired by the Federal agency would have been reduced because of false or improper identification of tobacco produced on or marketed from such farm.

Sec. 9 Farm subdivided or combined.

(a) If land operated as a single farm in 1944 or any previous year has subsequently been subdivided and will be operated in 1945 as two or more farms, the 1945 tobacco acreage allotment determined or which otherwise would have been determined for the entire farm shall be apportioned among the tracts in the same proportion as the acreage of cropland suitable for the production of tobacco on each such tract in such year bore to the total number of acres of cropland suitable for the production of tobacco on the entire farm in such year unless otherwise recommended by the county committee and approved by the State committee.

(b) If two or more farms operated separately in 1944, or any previous year, have subsequently been combined and will be operated in 1945 as a single farm, the 1945 allotment shall be the sum of the 1945 allotments determined or which otherwise would have been determined for each of the farms composing the combination.

Sec. 10 Determination of normal yields. The normal yield for any old farm shall be that yield which the county committee determines is normal for the farm taking into consideration (1) the yields obtained on the farm during the years 1939-43; (2) the soil and other physical factors affecting the production of tobacco on the farm and (3) the yields obtained on other farms in the locality which are similar with respect to such factors. The weighted average of the normal yields for all farms in each county shall not exceed the normal yield established for the county in 1944, unless an adjustment for abnormal conditions is made by the War Food Administrator upon recommendations of the State committee.

ACREAGE ALLOTMENT AND YIELDS FOR NEW FARMS

Sec. 11 Determination of acreage allotments for new farms. The acreage allotment, other than an allotment made under Section 8(b), for a new farm shall be that acreage which the county committee determines is fair and reasonable for the farm taking into consideration the land, labor and equipment available for the production of tobacco, crop rotation practices, the soil and other physical factors affecting the production of tobacco; provided, that the acreage allotment so determined shall not exceed the smaller of (a) fifty percent of the allotments established pursuant to Section 5 for old farms which are similar with respect to land, labor, and equipment available for the production of tobacco, crop rotation practices, and the soil and other physical factors affecting the production of tobacco, or (b) fifty percent of the cropland in the farm.

Notwithstanding any other provisions of this section a tobacco acreage allotment shall not be established for any new farm if such farm has any other tobacco acreage allotment and unless either the operator or the person growing the tobacco (a) shall have had experience in growing flue-cured or any other kind of tobacco during the past five years, and (b) shall be living on the farm and largely dependent on this farm for his livelihood.

The acreage allotments established as provided in this section shall be subject to (a) the approval of the State committee, and (b) such downward adjustment as is necessary to bring such allotments in line with the total acreage available for allotment to all new farms. The acreage available for establishing allotments for new farms shall be five percent of the national acreage allotments for 1945.

Sec. 12 Time for filing application. An application for an allotment for a farm for which no allotment was established in 1944, shall be filed with the county committee prior to March 1, 1945.

Sec. 13 Determination of normal yields. The normal yield for a new farm shall be that yield per acre which the county committee determines is reasonable for the farm as compared with yields for other farms in the locality on which the soil and other physical factors affecting the production of tobacco are similar.

Done at Washington, D. C.

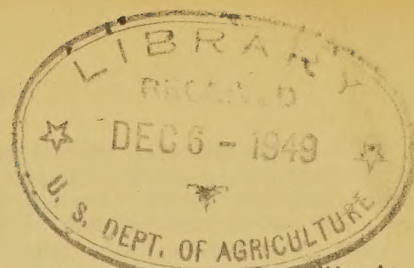
this 11th day of January, 1945

/s/ Wilson Cowen
Assistant War Food Administrator

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WAR FOOD ADMINISTRATION

Agricultural Adjustment Agency



Chapter VII—War Food Administration (Agricultural Adjustment)

[Tobacco 913, Part II]

PART 725—BURLEY AND FLUE-CURED TOBACCO MARKETING QUOTA REGULATIONS 1945-46 MARKETING QUOTA REGULATIONS

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AUTHORITY: §§ 725.125 to 725.156, inclusive, issued under 52 Stat. 47, 48, 65, 66, 202; 53 Stat. 1261, 1262; 54 Stat. 393, 728; 55 Stat. 88; Pub. Law 118, 78th Cong., approved July 7, 1943; Pub. Law 276, 78th Cong., approved Mar. 31, 1944; 7 U.S.C. 1301 et seq.; E.O. 9322, Mar. 26, 1943, as amended by E.O. 9334, Apr. 19, 1943.

NOTE: Hereafter marketing quota regulations for Burley and flue-cured tobacco will be combined under Part 725. Prior marketing quota regulations for Burley tobacco will be found under Part 724 and for flue-cured tobacco, under Part 727.

GENERAL

§ 725.125 *Definitions.* As used in §§ 725.125 to 725.156, inclusive, and in all instructions, forms and documents in connection therewith, the words and phrases defined in this section shall have the meanings herein assigned to them unless the context or subject matter otherwise requires.

(a) "Act" means the Agricultural Adjustment Act of 1938, as amended.

(b) "Administrator" means the Administrator or Acting Administrator of the War Food Administration.

(c) "County committee" means the group of persons elected within any county to assist in the administration of the Agricultural Conservation Program in such county.

(d) "Dealer or Buyer" means a person who engages to any extent in the business of acquiring tobacco from producers without regard to whether such person is registered as a dealer with the Bureau of Internal Revenue.

(e) "Farm" means all adjacent or nearby farm land under the same ownership which is operated by one person, including also:

(1) Any other adjacent or nearby farm land which the county committee, in accordance with instructions issued by the Agricultural Adjustment Agency, determines is operated by the same person as part of the same unit with respect to the rotation of crops and with workstock, farm machinery, and labor substantially separate from that for any other lands; and

(2) Any field-rented tract (whether operated by the same or another person) which, together with any other land included in the farm, constitutes a unit with respect to the rotation of crops.

A farm shall be regarded as located in the county in which the principal dwelling is situated, or if there is no dwelling thereon it shall be regarded as located in the county in which the major portion of the farm is located.

(f) "Field Assistant" means any duly authorized employee of the Agricultural Adjustment Agency, United States Department of Agriculture, and any duly authorized employee of a county committee whose duties involve primarily the preparation and handling of records and reports pertaining to tobacco marketing quotas.

(g) "Floor sweepings" means all tobacco which is dropped on the warehouse floor in the course of the warehouse operations and is picked up by the warehouseman. Any tobacco accumulated in the course of the grading and tying of tobacco for farmers shall not be included as floor sweepings.

(h) "Market" means the disposition in raw or processed form of tobacco by voluntary or involuntary sale, barter or exchange, or by gift inter vivos. "Marketing" and "marketed" shall have corresponding meanings to the term "market."

(i) "Nonwarehouse sale" means any first marketing of farm tobacco other than by sale at public auction through a warehouse in the regular course of business.

(j) "Operator" means the person who is in charge of the supervision and the conduct of the farming operations on the entire farm.

(k) "Person" means an individual, partnership, association, corporation, estate or trust, or other business enterprise or other legal entity, and wherever applicable, a State, a political subdivision of the State or any agency thereof.

(l) "Producer" means a person who, as owner, landlord, tenant, sharecropper, or laborer is entitled to share in the tobacco available for marketing from the farm, or in the proceeds thereof.

(m) "Pound" means that amount of tobacco which, if weighed in its unstemmed form and in the condition in which it is usually marketed by producers, would equal one pound standard weight.

(n) "Resale" means the disposition by sale, barter, or exchange of tobacco which has been marketed previously.

(o) "Sale day" means the period at the end of which the warehouseman bills to buyers the tobacco so purchased during such period.

(p) "Scrap tobacco" means the residue accumulated on the farm in the course of preparing flue-cured tobacco for market consisting chiefly of portions of tobacco leaves and leaves of poor quality.

(q) "State committee" means the group of persons designated within any State to assist in the administration of the Agricultural Conservation Program in such State.

(r) "Suspended sale" means any first marketing of farm tobacco at a warehouse sale for which a memorandum of sale is not issued by the end of the sale day on which such marketing occurred.

(s) "Tobacco" means:

(1) Flue-cured tobacco classified in Service and Regulatory Announcement No. 118 of the Bureau of Agricultural Economics of the United States Department of Agriculture as types 11, 12, 13 and 14, and collectively known as flue-cured tobacco.

(2) Burley tobacco classified in Service and Regulatory Announcement No. 118 of the Bureau of Agricultural Economics of the United States Department of Agriculture as type 31.

(3) Any tobacco that has the same characteristics and corresponding qualities, colors, and lengths as either flue-cured or Burley tobacco shall be considered flue-cured or Burley regardless of any factors of historical or geographical nature which cannot be determined by examination of the tobacco.

(t) "Tobacco available for marketing" means all tobacco produced on the farm in the calendar year 1945 and all tobacco produced on the farm prior to the calendar year 1945 and carried over to the 1945-46 marketing year, which is not disposed of in accordance with § 725.129.

(u) "Tobacco subject to marketing quotas" means:

(1) Any flue-cured tobacco marketed during the period July 1, 1945, to June 30, 1946, inclusive, and any tobacco produced in the calendar year 1945 and marketed prior to July 1, 1945.

(2) Any Burley tobacco marketed during the period October 1, 1945, to September 30, 1946, inclusive, and any tobacco produced in the calendar year 1945 and marketed prior to October 1, 1945.

(v) "Trucker" means a person who engages in the business of trucking tobacco to market and selling it for producers regardless of whether the tobacco is acquired from producers by the trucker.

(w) "Warehouseman" means a person engaged in the business of holding sales of tobacco at public auction at a warehouse.

(x) "Warehouse sale" means a marketing by sale at public auction through a warehouse in the regular course of business.

§ 725.126 *Instructions and forms.* The Chief of the Agricultural Adjustment Agency shall cause to be prepared and issued such instructions and such forms as may be deemed necessary or expedient for carrying out §§ 725.125 to 725.156, inclusive.

FARM MARKETING QUOTAS

§ 725.127 *Amount of farm marketing quota.* The marketing quota for a farm shall be the actual production of tobacco on the farm acreage allotment, as established for the farm in accordance with Tobacco 913, Part I, Marketing Quota Regulations—Flue-cured Tobacco—1945-46 Marketing Year, or Tobacco 913, Part I, Marketing Quota Regulations—Burley Tobacco—1945-46 Marketing Year. The actual production of the farm acreage allotment shall be the average yield per acre of the entire acreage of tobacco harvested on the farm in 1945 times the farm acreage allotment. The excess tobacco on any farm shall be that quantity of tobacco which is equal to the average yield per acre of the entire acreage of tobacco harvested on the farm in 1945 times the number of acres harvested in excess of the farm acreage allotment.

§ 725.128 *No transfers.* There shall be no transfer of marketing quotas (except as provided in Tobacco 913 (Flue-cured) Part I and Tobacco 913 (Burley) Part I).

§ 725.129 *Disposition of excess tobacco.* The farm operator may elect to give proof of disposition of excess tobacco

prior to the marketing of any tobacco from the farm by any of the following methods:

(a) By a declaration of intention to market all tobacco available for marketing and the payment at the office of the county committee by check, draft, or money order drawn payable to the Treasurer of the United States in an amount equal to the penalty which would be due upon the marketing of the tobacco available for marketing. Any additional amount of penalty determined to be due after all marketings of tobacco from the farm have been made shall be paid by the operator not later than 20 days after receipt of notice of such additional penalty. Any amount collected in excess of the penalty due shall be refunded upon request of the producer.

(b) By storage of the excess tobacco, the tobacco so stored to be representative of the entire 1945 crop produced on the farm, and posting of a bond approved by the county committee and the State committee in the penal sum of twice the amount of penalty which will become due upon the marketing of excess tobacco.

(c) By furnishing to the county committee satisfactory proof that the farm operator is unable to market the excess tobacco.

§ 725.130 *Issuance of marketing cards.* A marketing card shall be issued for every farm having tobacco available for marketing. Subject to the approval of the county committee, two or more marketing cards may be issued for any farm. All entries on each marketing card shall be made in accordance with the instructions for issuing marketing cards. Upon the return to the office of the county committee of the marketing card after all the memoranda of sale have been issued therefrom and before the marketing of tobacco from the farm has been completed, a new marketing card of the same kind, bearing the same name, information and identification as the used card shall be issued for the farm. A new marketing card of the same kind shall be issued for any farm to replace a card which has been reported to the county committee as having been lost, destroyed, or stolen.

(a) *Within Quota Marketing Card (Tobacco 920).* A Within Quota Marketing Card authorizing the marketing without penalty of the 1945 crop of tobacco on the farm and any tobacco carried over from a prior marketing year shall be issued for a farm under the following conditions:

(1) If the harvested acreage of tobacco in 1945 is not in excess of the farm acreage allotment; if any excess tobacco carried over from any previous marketing year can be marketed without penalty under the provisions of § 725.136; if the operator of the farm does not operate another farm on which the harvested acreage of tobacco exceeds the farm acreage allotment; and if the county committee does not determine that a zero percent excess marketing card is necessary to protect the interest of the Government and insure the proper identification and accounting for to-

bacco produced on the farm and the proper use of the marketing card issued for the farm, or

(2) If excess tobacco produced on the farm is disposed of in accordance with § 725.129, or

(3) If the tobacco was grown for experimental purposes on land owned or leased by a publicly-owned agricultural experiment station and is produced at public expense by employees of the experiment station, or if the tobacco was produced by farmers pursuant to an agreement with an experiment station whereby the experiment station bears the costs and risks incident to the production of the tobacco and the proceeds from the crop inure to the benefit of the experiment station; provided that such agreement is approved by the State committee prior to the issuance of a marketing card for the farm.

(b) *Excess Marketing Card (Tobacco 921).* An Excess Marketing Card showing the extent to which marketings of tobacco from a farm are subject to penalty shall be issued for a farm unless a within quota card is required to be issued for the farm under paragraph (a) of this section.

§ 725.131 *Person authorized to issue cards.* The county committee shall designate one person to sign marketing cards for farms in the county as issuing officer. The issuing officer may, subject to the approval of the county committee, designate not more than three persons to sign his name in issuing marketing cards; provided that each such person shall place his initials immediately beneath the name of the issuing officer as written by him on the card.

§ 725.132 *Rights of producers in marketing cards.* Each producer having a share in the tobacco available for marketing from the farm shall be entitled to the use of the marketing card for marketing his proportionate share of the total amount of tobacco available for marketing from the farm.

§ 725.133 *Successors in interest.* Any person who succeeds in whole or in part to the share of a producer in the tobacco available for marketing from the farm shall, to the extent of such succession, have the same rights as the producer to the use of the marketing card for the farm.

§ 725.134 *Invalid cards.* A marketing card shall be invalid under any of the following conditions:

(a) If it is not issued or delivered in the form and manner prescribed;

(b) If entries are not made thereon as required;

(c) If it is lost, destroyed, stolen, or becomes illegible;

(d) If any erasure or alteration has been made, and not properly initialed.

In the event any marketing card becomes invalid (other than by loss, destruction, theft or omission, alteration and incorrect entry which can be corrected by a field assistant) the farm operator (or the person having the card in his possession) shall return it to the county office at which it was issued.

If any entry is not made on a marketing card as required (either through

omission or incorrect entry) and the proper entry is made by a field assistant then such card shall become valid.

§ 726.135 Report of misuse of marketing card. Any information which causes any field assistant, a member of any state, county, or community committee, or any employee of any State or county committee to believe that any tobacco which actually was produced on one farm has been or is being marketed under the marketing card issued for another farm shall be reported immediately by such person to the State committee.

MARKETING OF TOBACCO AND PENALTIES

§ 725.136 Extent to which marketings from a farm are subject to penalty. The extent to which marketings of tobacco from any farm having no carry-over tobacco are subject to penalty shall be that percentage of the tobacco available for marketing from the farm which the acreage of tobacco harvested in excess of the farm acreage allotment for the farm and not disposed of as provided in § 725.129 is of the acreage of tobacco harvested from the farm. If the farm operator refuses to furnish or prevents the county committee from obtaining any information necessary to the issuance of the marketing card, all tobacco available for marketing from the farm shall be subject to penalty.

The extent to which marketings of tobacco from any farm having tobacco available for marketing which has been carried over from a prior marketing year are subject to penalty shall be the percentage determined as follows:

(a) Determine the number of "carry-over acres" by dividing the number of pounds of tobacco carried over from the prior year by the normal yield for the farm for that year.

(b) Determine the number of "within quota carry-over acres" by multiplying the "carry-over acres" (paragraph (a)) by the "percent within quota" (i. e., 100 percent minus the percent excess) for the year in which the carry-over tobacco was produced.

(c) Determine the "total acres" of tobacco by adding the "carry-over acres" (paragraph (a)) and the acreage of tobacco harvested in the current year.

(d) Determine the excess acreage by subtracting from the "total acres" (paragraph (c)) the sum of the 1945 allotment and the "within quota carry-over acres" (paragraph (b)).

(e) Determine the percent excess to be shown on the marketing card by dividing the "total acres" into the excess acreage (paragraph (d)).

The burden of any penalty with respect to carry-over tobacco shall be borne by those persons having an interest in such tobacco.

§ 725.137 Memorandum of sale to identify every marketing. Each marketing of tobacco from a farm shall be identified by an executed memorandum of sale from the marketing card (Tobacco 920 or Tobacco 921) issued for the farm on which the tobacco was produced. If a memorandum of sale is not executed by the end of the sale day on which the tobacco was marketed, the

marketing shall be suspended sale, and, unless a memorandum identifying the tobacco so marketed is executed within four weeks after such sale day or on the last sale day at the warehouse, whichever is earlier, the entire amount of tobacco so marketed shall be deemed to be subject to penalty and shall be identified by a form Tobacco 928, Sale Cleared Without Marketing Card. The memorandum of sale or form Tobacco 928 shall be executed only by a field assistant with the following exceptions:

(a) A warehouseman, or his authorized representative, who has been designated on an Authorization to Issue Memoranda of Sale (Tobacco 923) may issue a memorandum of sale to identify a warehouse sale, if a field assistant is not available at the warehouse when the card is presented. Each memorandum of sale issued by a warehouseman shall be presented promptly by him to the field assistant for verification with the warehouse records.

(b) In the case of flue-cured tobacco only, a dealer, or his authorized representative, operating a receiving point for scrap tobacco at a redrying plant (and other regular receiving points operated by such dealer or his agents or employees) or at an auction warehouse, and who keeps records showing the information specified in § 725.148 (f), who has been authorized on form Tobacco 923, may issue a memorandum of sale covering a sale of scrap tobacco only if the bill of nonwarehouse sale has been executed on the back of such memorandum of sale.

The authorization to issue memoranda of sale may be withdrawn from any warehouseman or dealer upon written notice by the State committee.

Each excess memorandum of sale issued by a field assistant shall be checked by the warehouseman or dealer (or his representative) to determine whether the amount of penalty shown to be due has been correctly computed and such warehouseman or dealer shall not be relieved of any liability with respect to the amount of penalty due because of any error which may occur on the memorandum of sale.

§ 725.138 Bill of nonwarehouse sale. Any first marketing of farm tobacco other than by sale at public auction through a warehouse, shall be identified by a bill of nonwarehouse sale (back of the memorandum of sale) completely executed by the buyer and the farm operator. If the bill of nonwarehouse sale is issued to cover scrap tobacco, the word "Scrap" shall be written thereon immediately above the words "Bill of Nonwarehouse Sale."

Each bill of nonwarehouse sale covering any marketing except scrap tobacco shall be presented to a field assistant for issuance of a memorandum of sale and for recording in the Dealer's Record (Tobacco 925) in case of a purchase by a dealer other than a warehouseman.

Each bill of nonwarehouse sale covering scrap tobacco shall be delivered to a person at a receiving point who has been authorized to issue memoranda of sale.

§ 725.139 Marketings free of penalty. Any tobacco marketed from a farm which

is identified by a valid memorandum of sale from the marketing card issued for the farm shall be free of penalty to the extent shown by the memorandum of sale.

§ 725.140 Marketings subject to penalty and collection of penalties—(a) Farm tobacco. With respect to tobacco marketed from farms having excess tobacco available for marketing, the penalty shall be paid upon that percentage of each lot of tobacco marketed which the tobacco available for marketing in excess of the farm quota is of the total amount of tobacco available for marketing from the farm. The memorandum of sale issued to identify such marketing of tobacco shall show that portion of such marketing which is subject to penalty, and any portion of each marketing of tobacco which is not shown by the memorandum as being subject to penalty shall be free of penalty.

(b) *Dealer's tobacco.* Any marketing of tobacco by a dealer which such dealer represents to be a resale, but all or any part of which, when added to prior resales by such dealer as shown on form Tobacco 925 is in excess of the total amount of purchases as shown on such dealer's record shall be a marketing of tobacco subject to penalty unless and until the dealer furnishes proof acceptable to the Administrator showing that such tobacco is not subject to penalty. Any marketing of tobacco by a dealer which such dealer represents to be a resale of tobacco previously purchased by him but which, because of the difference in the price at which such tobacco is resold as compared with the price at which he had purchased the tobacco, cannot reasonably be regarded as tobacco previously purchased by him shall be taken to be a marketing of tobacco subject to penalty.

(c) *Tobacco not identified by a valid memorandum.* Any tobacco marketed from a farm which is not identified by a valid memorandum of sale from the marketing card issued for the farm on which the tobacco was produced shall be subject to penalty.

§ 725.141 Persons to pay penalty. The person to pay the penalty due on any marketing of excess tobacco shall be one of the following as applicable.

(a) *Warehouseman.* If the tobacco is marketed by the producer through a warehouseman the penalty shall be paid by the warehouseman who may deduct an amount equivalent to the penalty from the price paid to the producer.

(b) *Dealer.* If the tobacco is acquired from the producer by a dealer, the penalty shall be paid by the dealer who may deduct an amount equivalent to the penalty from the price paid to the producer.

(c) *Agent.* If the tobacco is marketed by the producer through an agent who is not a warehouseman, the penalty shall be paid by the agent who may deduct an amount equivalent to the penalty from the price paid to the producer.

(d) *Warehouseman and dealer on dealer's tobacco.* Any penalty due upon tobacco subject to penalty under § 725.140 (b), shall be paid by the warehouseman who may deduct an amount equivalent to the penalty from the price paid

to the dealer, but the dealer shall not be relieved of responsibility for payment of such penalty.

(e) *Producer marketing outside United States.* If the tobacco is marketed by the producer directly to any person outside the United States, the penalty shall be paid by the producer.

§ 725.142 *Rate of penalty.* The penalty shall be ten cents per pound upon the marketing of any tobacco in excess of the marketing quota for the farm on which the tobacco is produced and on the marketing of any other tobacco not identified under these regulations as being free of penalty.

§ 725.143 *Payment of penalty.* Penalties upon the marketing of excess tobacco shall become due at the time of the marketing and shall be paid by remitting the amount thereof to the State committee not later than the end of the calendar week following the week in which the tobacco became subject to penalty under § 725.137. A draft, money order, or check drawn payable to the Treasurer of the United States should be used to pay any penalty, but any such draft or check shall be received subject to payment at par.

§ 725.144 *Penalty for false identification or failure to account for disposition of tobacco.* If any producer falsely identifies or fails to account for the disposition of any tobacco, an amount of tobacco equal to the normal yield of the number of acres harvested in 1945 in excess of the farm acreage allotment shall be deemed to have been marketed in excess of the marketing quota for the farm and the penalty in respect thereof shall be paid and remitted by the producer.

§ 725.145 *Request for return of penalty.* Any producer of tobacco, after the marketing of all tobacco available for marketing from the farm, and any other person who bore the burden of the payment of any penalty may request the return of the amount of such penalty which is in excess of the amount due.

RECORDS AND REPORTS

§ 725.146 *Producer's records and reports—(a) Report on marketing card.* The operator of each farm on which tobacco is produced in 1945 shall return to the office of the county committee each marketing card issued for the farm whenever marketings from the farm are completed and in no event later than thirty days after the close of the tobacco auction markets for the locality in which the farm is located. Failure to return the marketing card within the time specified (after formal notification) shall constitute failure to give proof of disposition of tobacco marketed from the farm in the event that satisfactory proof of such disposition is not furnished otherwise.

(b) *Additional reports by producers.* In addition to any other reports which may be required under these regulations, the operator of each farm or any other person having an interest in the tobacco grown on the farm (even though the harvested acreage does not exceed the acreage allotment and even though no

allotment was established for the farm) shall, upon written request by the State committee and within ten days after the deposit of such request in the United States mails addressed to such person at his last known address, furnish the Administrator, by sending the same to the State committee, a written report showing, as to the farm at the time of filing said report (1) the number of acres of tobacco harvested, (2) the total production of tobacco, (3) the amount of tobacco on hand and its location, and (4) as to each lot of tobacco marketed, the name and address of the warehouseman, dealer, or other person to or through whom such tobacco was marketed and the number of pounds marketed, the gross price, and the date of marketing.

§ 725.147 *Warehouseman's records and reports—(a) Record of marketings.* Each warehouseman shall keep such records as will enable him to furnish to the Administrator a report of the following information with respect to each sale or resale of tobacco made at his warehouse:

- (1) The name of the seller (and, in the case of a sale for a producer, the name of the operator of the farm on which the tobacco was produced).
- (2) The name of the purchaser.
- (3) The date of sale.
- (4) The number of pounds sold.
- (5) The gross sale price.
- (6) The amount of any penalty and the amount of any deduction on account of penalty from the price paid the producer (or a dealer).

All purchases and resales for the warehouse leaf account shall be so identified in the records and a separate account shall be maintained with respect to the amount of floor sweepings picked up and the disposition of such floor sweepings. The quantity of floor sweepings, including bundles, leaves and scrap, picked up by the warehouse after each sale shall be reported in the space provided on the Auction Warehouse Report (Tobacco 926). Any warehouseman who grades tobacco for farmers shall maintain a separate account showing the approximate amount of grading-house scrap obtained from the tobacco graded from each farm. In the case of resales for dealers the name of the dealer making each resale shall be shown on the warehouse records so that the individual lots of tobacco sold by the dealer can be identified.

(b) *Identification of sale on check register.* The serial number of the memorandum of sale issued to identify each marketing of tobacco from the farm or the number of the warehouse bill(s) covering each such marketing shall be recorded on the check register or check stub for the check written with respect to such sale of tobacco.

(c) *Memorandum of sale and bill of nonwarehouse sale.* A record in the form of a valid memorandum of sale (or a sale cleared without marketing card) shall be obtained by every warehouseman to cover each marketing of tobacco from a farm through the warehouse, and if a warehouseman buys tobacco directly from a farmer (other than at a public

auction at a warehouse) such warehouseman shall obtain a valid memorandum of sale to cover each such purchase of tobacco, together with a properly executed bill of nonwarehouse sale. Any warehouseman who obtains possession of any grading-house scrap in the course of grading tobacco from any farm shall obtain a memorandum of sale to cover the amount of such scrap tobacco from such farm.

(d) *Suspended sale record.* Any warehouse bills covering farm tobacco for which memoranda of sale have not been issued at the end of the sale day shall be presented to a field assistant who shall stamp such bills "Suspended", write thereon the serial number of the suspended sale, and record the bills on the Field Assistant's Report (Tobacco 929) provided that if a field assistant is not available, the warehouseman may stamp such bills "Suspended" and deliver them to a field assistant as soon as one is available.

(e) *Warehouse entries on dealers' records.* Each warehouseman shall enter on each form Tobacco 925 the total of purchases and resales made by such dealer during each sale day at the warehouse. If any tobacco resold by the dealer is tobacco bought by him from a crop produced prior to 1945 the entry on the dealer's record shall clearly show such fact.

(f) *Daily report of warehouse business.* Each warehouseman shall make reports on form Tobacco 926 showing the information required thereon. Form Tobacco 926 shall be prepared for each sale day and all reports for the sale days occurring during any week shall be forwarded to the State committee not later than the end of the next following calendar week.

(g) *Report of penalties.* Each warehouseman shall make reports on form Tobacco 927 showing the information required with respect to each sale subject to penalty. Form Tobacco 927 shall be prepared for each week and the report for each week shall be forwarded, together with remittances of the penalties due, as shown thereon, to the State committee not later than the end of the calendar week following the week in which the tobacco became subject to penalty under § 725.137.

(h) *Additional records and reports.* In addition to the records and reports provided above, each warehouseman shall keep such additional records and make such additional reports to the Administrator as the State committee may find necessary in order to enforce these regulations, subject to the approval of the Bureau of the Budget.

§ 725.148 *Dealer's records and reports.* Each dealer, except as provided in § 725.149, shall keep the records and make the reports as provided by this section.

(a) *Report of dealer's name, address and registration number.* Each dealer shall properly execute and the field assistant shall detach and forward to the State committee "Receipt for Dealer's Record" contained in form Tobacco 925 which is issued to the dealer.

(b) *Record and report of purchases and resales.* Each dealer shall keep a

record and make reports on form Tobacco 925 showing all purchases and resales of tobacco made by the dealer and, in the event of resale of tobacco bought from a crop produced prior to 1945, the fact that such tobacco was bought by him and carried over from a crop produced prior to 1945.

(c) *Report of penalties.* Each dealer shall make a report on form Tobacco 927 showing the information with respect to all purchases subject to penalty made by him during each calendar week. The penalties listed on each such report shall be remitted with the report.

(d) *Memorandum of sale and bill of nonwarehouse sale.* For each lot of tobacco purchased from a farmer each dealer shall obtain a record in the form of a valid memorandum of sale. No memorandum of sale shall be issued unless the bill of nonwarehouse sale, on the reverse side of the memorandum of sale, has been executed.

(e) *Record and report of scrap tobacco.* Each dealer operating a receiving point for scrap tobacco who has been authorized on form Tobacco 923 to issue memoranda of sale shall keep a record and make reports on form Tobacco 925 showing all tobacco received. Such reports shall be accompanied by memoranda of sale and bills of nonwarehouse sale with respect to all tobacco covered by the reports.

(f) *Additional records.* Each dealer shall keep such records, in addition to the foregoing, as may be necessary to enable him to furnish the following information with respect to each lot of tobacco purchased or sold by him:

(1) The name of the seller (and in the case of a purchase from a producer, the name of the operator of the farm on which the tobacco was produced).

(2) The name of the purchaser.

(3) The date of the transaction.

(4) The number of pounds sold.

(5) The gross purchase or sale price.

(6) The amount of any penalty and the amount of any deduction on account of penalty from the price paid the producer (or a dealer).

(7) In the event of resale of tobacco bought by him and carried over from a crop produced prior to 1945, the fact that such tobacco was so bought and carried over.

All reports shall be forwarded to the State committee not later than the end of the week following the calendar week covered by the reports.

§ 725.149 *Dealers exempt from regular records and reports.* Any dealer who does not purchase or otherwise acquire tobacco except at a warehouse sale and who does not resell, in the form in which tobacco ordinarily is sold by farmers, more than ten percent of the tobacco purchased by him, shall not be subject

to the provisions of § 725.148; but each such dealer shall make such reports to the Administrator as the State committee may find necessary to enforce §§ 725.125 to 725.156, inclusive.

§ 725.150 *Records and reports of truckers and persons redrying, pricing or stemming tobacco.* Every person engaged in the business of trucking tobacco for producers shall keep such records as will enable him to furnish the Administrator a report with respect to each lot of tobacco received by him showing the name and address of the farm operator, the date of the receipt of the tobacco, the number of pounds received, and the place to which it was delivered. Every person engaged in the business of redrying, prizing, or stemming tobacco for producers shall keep such records as will enable him to furnish the Administrator a report showing the information provided above for truckers and in addition the purpose for which the tobacco was received, the amount of advance made by him on the tobacco, and the disposition of the tobacco. Each such person shall make such reports to the Administrator as the State committee may find necessary to enforce §§ 725.125 to 725.156, inclusive.

§ 725.151 *Separate records and reports from persons engaged in more than one business.* Any person who is required to keep any record or make any report as a warehouseman, dealer, processor, or as a person engaged in the business of redrying, prizing, or stemming tobacco for producers, and who is engaged in more than one such business, shall keep such records as will enable him to make separate reports for each such business in which he is engaged, to the same extent for each such business as if he were engaged in no other business, except that a warehouseman shall not be required to keep a record and make reports on form Tobacco 925, if the transactions which would be recorded and reported on such forms are recorded on the records kept by the warehouse in its regular course of business and reported as required on form Tobacco 926.

§ 725.152 *Failure to keep records or make reports.* Any warehouseman, dealer, processor, or common carrier of tobacco, or person engaged in the business of redrying, prizing or stemming tobacco for producers, who fails to make any report or keep any record as required under §§ 725.125 to 725.156, inclusive, or who makes any false report or record, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than \$500; and any tobacco warehouseman or dealer who fails to remedy such violation by making a complete and accurate report or keeping a complete and accurate record as required under §§ 725.125 to 725.156, inclusive, within fifteen days after notice

to him of such violation shall be subject to an additional fine of \$100 for each ten thousand pounds of tobacco, or fraction thereof, bought or sold by him after the date of such violation; *Provided*, That such fine shall not exceed \$5,000; and notice of such violation shall be served upon the tobacco warehouse or dealer by mailing the same to him by registered mail or by posting the same at an established place of business operated by him, or both. Notice of any violation by a tobacco warehouseman or dealer shall be given by the State committee.

§ 725.153 *Examination of records and reports.* For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report but not so furnished, any warehouseman, dealer, processor, common carrier or person engaged in the business of redrying, prizing or stemming tobacco for producers shall make available for examination, upon written request by the State committee such books, papers, records, accounts, correspondence, contracts, documents, and memoranda as the State committee has reason to believe are relevant and are within the control of such person.

§ 725.154 *Length of time records and reports to be kept.* Records required to be kept and copies of the reports required to be made by any person under these regulations for the 1945-46 marketing year shall be kept by him until June 30, 1947, in the case of flue-cured tobacco and September 30, 1947, in the case of Burley tobacco. Records shall be kept for such longer period of time as may be requested in writing by the State committee.

§ 725.155 *Information confidential.* All data reported to or acquired by the Administrator pursuant to the provisions of §§ 725.125 to 725.156, inclusive, shall be kept confidential by all officers and employees of the United States Department of Agriculture and by all members and employees of county committees and only such data so reported or acquired as the Administrator deems relevant shall be disclosed by them and then only in a suit or administrative hearing under Title III of the act.

§ 725.156 *Redelegation of authority.* Any authority delegated to the State committee by §§ 725.125 to 725.156, inclusive, may be redelegated by the State committee.

NOTE: The record keeping and reporting requirements of these regulations have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Done at Washington, D. C., this 29th day of May 1945.

ASHLEY SELLERS,
Assistant War Food Administrator.

